

GAHC010177472020



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5342/2020

MAINA BASUMATARY
W/O LATE NIPEN BASUMATARY
VILLAGE MAJPARA, PO KACHADOL
PS RANGJULI, DIST GOALPARA, ASSAM, 783129

VERSUS

THE UNION OF INDIA AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF HOME AFFAIRS, NEW DELHI 01

2: THE STATE OF ASSAM.
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVT. OF ASSAM
DISPUR GUWAHATI 6

3: THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
RELIEF AND REHABILITATION DEPARTMENT
DISPUR GUWAHATI 6

4: THE COMMISSIONER AND SECRETARY
TO THE GOVT. OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI 6

5: THE DEPUTY COMMISSIONER
GOALPARA
ASSAM
78310

For the Petitioner(s)

: Mr. A. F. N. U. Mollah, Advocate

For the Respondent(s) : Mr. N. Goswami, Advocate

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

Date : 25.08.2023

1. The instant writ petition has been filed by the Petitioner who is the wife of one Lipen Basumatary (since deceased). It is the case of the Petitioner that the husband of the Petitioner was a driver of a Tata Truck bearing Registration No.AS-18C-3941. The said truck was requisitioned on 20.03.2016 by the Deputy Commissioner of West Khasi Hills District in the State of Meghalaya for transporting the operation team consisting of Meghalaya Police Officers and men from MLP and CRPF C-120 Camp, Tura. However, on 20.03.2016 at 2:30 PM, the vehicle was ambushed by GNLA militants which is located on the outskirts of Bokchung village. In that regard, an FIR was also filed before the Officer-in-Charge, Shallang Police Station, West Khasi Hills District and on the basis thereof, a case was registered under Section 120(B)/302/307/326/323/34 read with Section 27(1)(2) of Arms Act as well as Section 16/18/20 of Unlawful Activities (Prevention) Act and Section 3 of the Explosive Substances Act.

2. The Petitioner who is the wife of Late Lipen Basumatary thereupon filed an application before the Deputy Commissioner, Goalpara in terms with the Central Scheme for Assistance to Civilians Victims/Family of Victims of Terrorist, Communal and Naxal Violence claiming an amount of Rs.3,00,000/- as well as for another amount of Rs.2,00,000/- from the Prime Minister Relief Fund. The Petitioner had also sought for an amount of Rs.5,00,000/- from the Relief and

Rehabilitation Branch of Revenue and Disaster Management Department of the Government of Assam.

3. In the backdrop of the above, let this Court take into consideration as to whether any writ can be issued to the Respondents to pay the amounts of Ex-gratia as claimed. As the incident happened on 20.03.2016, the relevant notification insofar as the amount claimed from the Revenue and Disaster Management Department, Government of Assam is the notification dated 15.11.2014. From a perusal of the said notification, it is very clear that the Ex-gratia would be paid if the incident occurs in the State meaning thereby if the incident had occurred within the State of Assam. Under such circumstances, the Petitioner would not therefore be entitled to the benefits under the Notification dated 15.11.2014 as admittedly, the incident occurred in the State of Meghalaya.

4. As regards the claim of Rs.3,00,000/- under the Central Scheme for Assistance to Civilians Victims/Family of Victims of Terrorist, Communal and Naxal Violence, it can be seen from Clause-5 that the assistance of an amount of Rs.3,00,000/- is given in the event of death or permanent incapacitation of a victim in a terrorist, communal or naxal violence. However, Clause 6 stipulates the procedure to be followed at the District Level. This Court finds it relevant to observe that as the incident had happened within the territory of Meghalaya and in the District of West Khasi Hills, the Petitioner ought to have approached the District Committee or even the District Collector of West Khasi Hills. However the Petitioner has approached the Deputy Commissioner, Goalpara. This Court further finds it relevant to take note of that in terms with Clause 6 of the said Central Government Scheme, it is stipulated that various verifications are required to be carried out. These verifications can only be carried out by the

District Committee or the District Collector within whose jurisdiction the incident had happened. However, as admittedly the incident happened in the District of West Khasi Hills in the State of Meghalaya, the Petitioner ought to have therefore approached the District Collector or the District Committee seeking assistance as per the said Central Government Scheme. It is for this reason, this Court is constrained to observe that no writ be issued

5. As regards the claim as per Prime Minister Relief Fund of an amount of Rs.2,00,000/-, it is the opinion of this Court that taking into account no scheme has been enclosed showing as to how the Petitioner would be entitled to, it would not be proper on the part of this Court to pass any writ, order or direction.

6. Accordingly, this Court is of the opinion that the reliefs which have been sought for in the instant writ petition cannot be granted by this Court.

7. Accordingly, the instant writ petition stands dismissed.

8. Be that as it may, this Court grants liberty to the Petitioner to approach the Deputy Commissioner, West Khasi Hills or even the District Committee of the West Khasi Hills to claim the benefit in terms with the Central Government Scheme, and if so approached, the Deputy Commissioner, West Khasi Hills or the District Committee of the West Khasi Hills shall consider the same in accordance with the provisions of the Scheme.

JUDGE

Comparing Assistant